



Reprinted  
April 11, 2003

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## ENGROSSED HOUSE BILL No. 1811

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DIGEST OF HB 1811 (Updated April 10, 2003 3:51 PM - DI 44)

**Citations Affected:** IC 4-4; IC 5-17; IC 5-22; IC 6-2.5; IC 6-3; IC 6-3.1; IC 6-6; IC 6-8.1; IC 6-9.

**Synopsis:** Various tax matters. Prohibits the state from purchasing supplies or services from a business that is delinquent in payment of sales tax. Provides that out-of-state businesses that do business with the state are to be treated as if they are located in Indiana for purposes of collecting and remitting the sales tax. Requires the filing of an amended Indiana return when modifications in a taxpayer's federal return results in a change in the taxpayer's adjusted gross income. Eliminates a requirement that a withholding agent that makes electronic adjusted gross income deposits file a quarterly return. Expands the penalties applicable to a person who does not register an aircraft and pay applicable gross retail taxes. Eliminates the requirement that the department of state revenue collect vehicle identification information on a tax return. Allows the department of state revenue to remove a person who is not liable for unpaid tax from  
(Continued next page)

**Effective:** July 1, 2003.

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**Crawford, Cochran**  
(SENATE SPONSORS — BORST, SIMPSON)

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January 23, 2003, read first time and referred to Committee on Ways and Means.  
February 10, 2003, amended, reported — Do Pass.  
February 18, 2003, read second time, amended, ordered engrossed.  
February 19, 2003, engrossed.  
February 24, 2003, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 27, 2003, read first time and referred to Committee on Finance.  
April 7, 2003, amended, reported favorably — Do Pass.  
April 10, 2003, read second time, amended, ordered engrossed.

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EH 1811—LS 6907/DI 51+



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## Digest Continued

an assessment notice. Indicates that the limitation period on the issuance of an assessment does not apply to an assessment reissued to the persons liable for the tax. Gives a county fiscal officer conducting an investigation relating to the innkeeper's tax, food and beverage tax, or admissions tax concurrent jurisdiction with the department of state revenue and the audit, investigatory, appraisal, and enforcement powers of the department, and authorizes the county fiscal officer to recover related court costs, fees, and expenses. Authorizes certain cities to impose an admissions tax upon the price of admissions to certain entertainment facilities. Repeals an obsolete law granting an expired investment credit and a criminal penalty for failure to provide motor vehicle information to the department of state revenue.

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Reprinted  
April 11, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1811

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A BILL FOR AN ACT to amend the Indiana Code concerning  
taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 4-4-8-1, AS AMENDED BY P.L.227-1999,  
2       SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2003]: Sec. 1. As used in this chapter:

4       "Department" means the department of commerce.

5       "Enterprise zone" means an enterprise zone created under  
6       IC 4-4-6.1.

7       "Governing body" means the legislative body of a city, town, or  
8       county, an economic development commission, or any board  
9       administering the affairs of a special taxing district.

10       "Industrial development program" means any program designed to  
11       aid the growth of industry in Indiana and includes:

12       (1) the construction of airports, airport facilities, and tourist  
13       attractions;

14       (2) the construction, extension, or completion of sewerlines,  
15       waterlines, streets, sidewalks, bridges, roads, highways, public  
16       ways, and information and high technology infrastructure (as  
17       defined in this section);

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(3) the leasing or purchase of property, both real and personal;  
and

(4) the preparation of surveys, plans, and specifications for the  
construction of publicly owned and operated facilities, utilities,  
and services.

"Information and high technology infrastructure" includes, but is not  
limited to, fiber optic cable and other infrastructure that supports high  
technology growth and the purchase and installation of such fiber optic  
cable and other infrastructure.

"Minority enterprise small business investment company" means an  
investment company licensed under 15 U.S.C. 681(D).

"Qualified entity" means a city, town, county, economic  
development commission, or special taxing district.

"Small business investment company" means an investment  
company licensed under 15 U.S.C. 691 et seq.

"State corporation" means the state corporation ~~(as defined by~~  
~~IC 6-3.1-5-2):~~ **organized under IC 6-3.1-5-7 (before its repeal) and**  
**IC 6-3.1-5-8 (before its repeal).**

SECTION 2. IC 5-17-1-11 IS ADDED TO THE INDIANA CODE  
AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
1, 2003]: **Sec. 11. IC 5-22-16-4(b) applies to a lease or purchase of**  
**personal property made after June 30, 2003, by an agency (as**  
**defined in IC 4-13-2-1) or a state educational institution (as defined**  
**in IC 20-12-0.5-1) to the same extent as if the lease or purchase**  
**were subject to IC 5-22.**

SECTION 3. IC 5-22-16-4 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) An offeror that  
is a foreign corporation must be registered with the secretary of state  
to do business in Indiana in order to be considered responsible.

(b) **This subsection applies to a purchase of supplies or services**  
**for a state agency under a contract entered into or purchase order**  
**sent to an offeror (in the absence of a contract) after June 30, 2003,**  
**including a purchase described in IC 5-22-8-2 or IC 5-22-8-3. A**  
**state agency may not purchase property or services from a person**  
**that is delinquent in the payment of amounts due from the person**  
**under IC 6-2.5 (gross retail and use tax) unless the person provides**  
**a statement from the department of state revenue that the person's**  
**delinquent tax liability:**

(1) has been satisfied; or

(2) has been released under IC 6-8.1-8-2.

(c) The purchasing agent may award a contract to an offeror pending  
the offeror's registration with the secretary of state. If, in the judgment

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of the purchasing agent, the offeror has not registered within a reasonable period, the purchasing agent shall cancel the contract. An offeror has no cause of action based on the cancellation of a contract under this subsection.

SECTION 4. IC 6-2.5-4-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 14. The department of administration and each purchasing agent for a state educational institution (as defined in IC 20-12-0.5-1) shall provide the department with a list of every person who desires to enter into a contract to sell property or services to an agency (as defined in IC 4-13-2-1) or a state educational institution. The department shall notify the department of administration or the purchasing agent of the state educational institution if a person on the list does not have a registered retail merchant certificate or is delinquent in remitting or paying amounts due to the department under this article.**

SECTION 5. IC 6-2.5-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) A person that:

- (1) makes retail transactions from outside Indiana to a destination in Indiana;
- (2) does not maintain a place of business in Indiana; and
- (3) **either:**
  - (A) engages in the regular or systematic soliciting of retail transactions from potential customers in Indiana;
  - (B) enters into a contract to provide property or services to an agency (as defined in IC 4-13-2-1) or an institution of higher education (as defined in IC 20-12-0.5-1); or
  - (C) agrees to sell property or services to an agency (as defined in IC 4-13-2-1) or an institution of higher education (as defined in IC 20-12-0.5-1);

shall file an application for a retail merchant's certificate under this chapter and collect and remit ~~the use~~ tax as provided in this article. **Conduct described in subdivision (3)(B) and (3)(C) occurring after June 30, 2003, constitutes consent to be treated under this article as if the person has a place of business in Indiana or is engaging in conduct described in subdivision (3)(A), including the provisions of this article that require a person to collect and remit tax under this article.**

(b) A person is rebuttably presumed to be engaging in the regular or systematic soliciting of retail transactions from potential customers in Indiana if the person does any of the following:

- (1) Distributes catalogs, periodicals, advertising flyers, or other



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written solicitations of business to potential customers in Indiana, regardless of whether the distribution is by mail or otherwise and without regard to the place from which the distribution originated or in which the materials were prepared.

(2) Displays advertisements on billboards or displays other outdoor advertisements in Indiana.

(3) Advertises in newspapers published in Indiana.

(4) Advertises in trade journals or other periodicals that circulate primarily in Indiana.

(5) Advertises in Indiana editions of a national or regional publication or a limited regional edition in which Indiana is included as part of a broader regional or national publication if the advertisements are not placed in other geographically defined editions of the same issue of the same publication.

(6) Advertises in editions of regional or national publications that are not by the contents of the editions geographically targeted to Indiana but that are sold over the counter in Indiana or by subscription to Indiana residents.

(7) Broadcasts on a radio or television station located in Indiana.

(8) Makes any other solicitation by telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system.

(c) A person not maintaining a place of business in Indiana is considered to be engaged in the regular or systematic soliciting of retail transactions from potential customers in Indiana if the person engages in any of the activities described in subsection (b) and:

(1) makes at least one hundred (100) retail transactions from outside Indiana to destinations in Indiana during a period of twelve (12) consecutive months; or

(2) makes at least ten (10) retail transactions totaling more than one hundred thousand dollars (\$100,000) from outside Indiana to destinations in Indiana during a period of twelve (12) consecutive months.

(d) The location in or outside Indiana of vendors that:

(1) are independent of a person that is soliciting customers in Indiana; and

(2) provide products or services to the person in connection with the person's solicitation of customers in Indiana, including products and services such as creation of copy, printing, distribution, and recording;

is not to be taken into account in the determination of whether the person is required to collect use tax under this section.

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SECTION 6. IC 6-3-4-6 IS AMENDED TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Any taxpayer, upon request  
by the department, shall furnish to the department a true and correct  
copy of any tax return which he has filed with the United States  
Internal Revenue Service which copy shall be certified to by the  
taxpayer under penalties of perjury.

(b) Each taxpayer shall notify the department of any modification  
of:

(1) a federal income tax return filed by the taxpayer after January  
1, 1978; or

(2) the taxpayer's federal income tax liability for a taxable year  
which begins after December 31, 1977.

The taxpayer shall file the notice, on the form prescribed by the  
department, within one hundred twenty (120) days after the  
modification is made.

**(c) If the federal modification results in a change in the  
taxpayer's federal or Indiana adjusted gross income, the taxpayer  
shall file an Indiana amended return within one hundred twenty  
(120) days after the modification is made.**

SECTION 7. IC 6-3-4-8.1 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8.1. (a) Any entity that  
is required to file a monthly return and make a monthly remittance of  
taxes under sections 8, 12, 13, and 15 of this chapter shall file those  
returns and make those remittances twenty (20) days (rather than thirty  
(30) days) after the end of each month for which those returns and  
remittances are filed, if that entity's average monthly remittance for the  
immediately preceding calendar year exceeds one thousand dollars  
(\$1,000).

(b) The department may require any entity to make the entity's  
monthly remittance and file the entity's monthly return twenty (20) days  
(rather than thirty (30) days) after the end of each month for which a  
return and payment are made if the department estimates that the  
entity's average monthly payment for the current calendar year will  
exceed one thousand dollars (\$1,000).

(c) If a person files a combined sales and withholding tax report and  
either this section or IC 6-2.5-6-1 requires the sales or withholding tax  
report to be filed and remittances to be made within twenty (20) days  
after the end of each month, then the person shall file the combined  
report and remit the sales and withholding taxes due within twenty (20)  
days after the end of each month.

(d) If the department determines that an entity's:

(1) estimated monthly withholding tax remittance for the current

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year; or

(2) average monthly withholding tax remittance for the preceding year;

exceeds ten thousand dollars (\$10,000), the entity shall remit the monthly withholding taxes due by electronic fund transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the remittance is due.

(e) If an entity's withholding tax remittance is made by electronic fund transfer, the entity is not required to file a monthly withholding tax return. ~~However, the entity shall file a quarterly withholding tax return before the twentieth day following the end of each calendar quarter.~~

SECTION 8. IC 6-6-6.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) The registration of any taxable aircraft without payment of the tax imposed by this chapter shall be void, and the department shall take possession of the certificate of registration and other evidences of registration, until the owner shall have paid the tax together with any penalties assessed by the department.

(b) If an owner does not register his aircraft and pay the tax imposed by this chapter when required, the owner is subject to a penalty and interest on the unpaid tax. The penalty is the greater of twenty dollars (\$20) or twenty percent (20%) of the unpaid tax. The interest applies at the rate established in IC 6-8.1-10-1. The penalty and interest apply from the date the tax becomes delinquent until the aircraft is registered and the tax paid.

(c) If an airport owner does not report the aircraft based at his airport when required by section 23 of this chapter, the department may assess a penalty equal to ten dollars (\$10) for each day that the report is late.

(d) If an owner does not register the owner's aircraft and pay the gross retail or use tax when required by this chapter, the owner shall be subject to ~~a penalty~~ **the penalties** and interest on the unpaid gross retail or use tax ~~as that are~~ established in ~~IC 6-8.1-10-1~~. **IC 6-8.1-10.**

SECTION 9. IC 6-8.1-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The department may audit any returns filed in respect to the listed taxes, may appraise property if the property's value relates to the administration or enforcement of the listed taxes, may audit gasoline distributors for financial responsibility, and may investigate any matters relating to the

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1 listed taxes.

2 (b) For purposes of conducting its audit or investigative functions,  
3 the department may:

- 4 (1) subpoena the production of evidence;  
5 (2) subpoena witnesses; and  
6 (3) question witnesses under oath.

7 The department may serve its subpoenas or it may order the sheriff of  
8 the county in which the witness or evidence is located to serve the  
9 subpoenas.

10 (c) The department may enforce its audit and investigatory powers  
11 by petitioning for a court order in any court of competent jurisdiction  
12 located in the county where the tax is due or in the county in which the  
13 evidence or witness is located. If the evidence or witness is not located  
14 in Indiana or if the department does not know the location of the  
15 evidence or witness, the department may file the petition in a court of  
16 competent jurisdiction in Marion County. The petition to the court must  
17 state the evidence or testimony subpoenaed and must allege that the  
18 subpoena was served but that the person did not comply with the terms  
19 of that subpoena.

20 (d) Upon receiving a proper petition under subsection (c), the court  
21 shall promptly issue an order which:

- 22 (1) sets a hearing on the petition on a date not more than ten (10)  
23 days after the date of the order; and  
24 (2) orders the person to appear at the hearing prepared to produce  
25 the subpoenaed evidence and give the subpoenaed testimony.

26 If the defendant is unable to show good cause for not producing the  
27 evidence or giving the testimony, the court shall order the defendant to  
28 comply with the subpoena.

29 (e) If the defendant fails to obey the court order, the court may  
30 punish ~~him~~ **the defendant** for contempt.

31 (f) Officers serving subpoenas or court orders and witnesses  
32 appearing in court are entitled to the normal compensation provided by  
33 law in civil cases. The department shall pay the compensation costs  
34 from the money appropriated for the administration of the listed taxes.

35 **(g) County treasurers investigating tax matters under IC 6-9**  
36 **have:**

- 37 **(1) concurrent jurisdiction with the department;**  
38 **(2) the audit, investigatory, appraisal, and enforcement**  
39 **powers described in this section; and**  
40 **(3) authority to recover court costs, fees, and other expenses**  
41 **related to an audit, investigatory, appraisal, or enforcement**  
42 **action under this section.**



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SECTION 10. IC 6-8.1-5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) If the department determines that a proposed assessment notice includes an individual who is not responsible for the tax liability, a new assessment may be made naming only the taxpayer that is responsible for the tax liability.**

**(b) For assessments made under subsection (a), the time limitation for assessments in section 2 of this chapter does not apply.**

SECTION 11. IC 6-8.1-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5. (a)** The department shall request from each taxpayer

**(1) vehicle identification information for vehicles owned by the taxpayer; and**

**(2) the amount of the taxpayer's gross income (as defined in Section 61 of the Internal Revenue Code) derived from sources within or outside Indiana using the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. The taxpayer shall itemize the amount of gross income derived from each source.**

**(b) The department shall send a list to the bureau of motor vehicles showing by taxpayer the vehicle identification information obtained by the department. However, the name, tax identification number, and the corresponding information sent to the bureau may not include income tax information.**

SECTION 12. IC 6-8.1-7-1, AS AMENDED BY P.L.204-2001, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1. (a)** This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

**(1) members and employees of the department;**

**(2) the governor;**

**(3) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the**

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provisions of the law relating to any of the listed taxes; or  
 (4) any authorized officers of the United States;  
 when it is agreed that the information is to be confidential and to be  
 used solely for official purposes.

(b) The information described in subsection (a) may be revealed  
 upon the receipt of a certified request of any designated officer of the  
 state tax department of any other state, district, territory, or possession  
 of the United States when:

(1) the state, district, territory, or possession permits the exchange  
 of like information with the taxing officials of the state; and

(2) it is agreed that the information is to be confidential and to be  
 used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person  
 on public welfare or a person who has made application for public  
 welfare may be revealed to the director of the division of family and  
 children, and to any county director of family and children located in  
 Indiana, upon receipt of a written request from either director for the  
 information. The information shall be treated as confidential by the  
 directors. In addition, the information described in subsection (a)  
 relating to a person who has been designated as an absent parent by the  
 state Title IV-D agency shall be made available to the state Title IV-D  
 agency upon request. The information shall be subject to the  
 information safeguarding provisions of the state and federal Title IV-D  
 programs.

(d) The name, address, Social Security number, and place of  
 employment relating to any individual who is delinquent in paying  
 educational loans owed to an institution of higher education may be  
 revealed to that institution if it provides proof to the department that the  
 individual is delinquent in paying for educational loans. This  
 information shall be provided free of charge to approved institutions of  
 higher learning (as defined by IC 20-12-21-3(2)). The department shall  
 establish fees that all other institutions must pay to the department to  
 obtain information under this subsection. However, these fees may not  
 exceed the department's administrative costs in providing the  
 information to the institution.

(e) The information described in subsection (a) relating to reports  
 submitted under IC 6-6-1.1-502 concerning the number of gallons of  
 gasoline sold by a distributor, and IC 6-6-2.5 concerning the number of  
 gallons of special fuel sold by a supplier and the number of gallons of  
 special fuel exported by a licensed exporter or imported by a licensed  
 transporter may be released by the commissioner upon receipt of a  
 written request for the information.



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(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

(1) the state agency shows an official need for the information; and

(2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(h) may be released solely for tax collection purposes to township assessors.

(h) The department shall notify the appropriate innkeepers' tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

(i) All information relating to the delinquency or evasion of the motor vehicle excise tax ~~shall~~ **may** be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

(j) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana ~~must~~ **may** be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(l) This section does not apply to:

(1) the beer excise tax (IC 7.1-4-2);

(2) the liquor excise tax (IC 7.1-4-3);

(3) the wine excise tax (IC 7.1-4-4);

(4) the hard cider excise tax (IC 7.1-4-4.5);

(5) the malt excise tax (IC 7.1-4-5);

(6) the motor vehicle excise tax (IC 6-6-5);

(7) the commercial vehicle excise tax (IC 6-6-5.5); and

(8) the fees under IC 13-23.

(m) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission

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solely for the purpose of the list prepared under IC 6-2.5-6-14.

SECTION 13. IC 6-9-34 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**Chapter 34. Entertainment Facility Admissions Tax**

**Sec. 1. (a)** Except as provided in subsection (b), after June 30 of a year but before January 1 of the following year, the fiscal body of a city may adopt an ordinance to impose an excise tax, known as the entertainment facility admissions tax, for the privilege of attending any event:

(1) held in a privately owned outdoor entertainment facility that:

(A) has a minimum capacity of at least ten thousand (10,000) patrons; and

(B) is located in a geographic area that has been annexed by the city before the adoption of the ordinance; and

(2) to which tickets are offered for sale to the public by:

(A) the box office of the facility; or

(B) an authorized agent of the facility.

(b) The excise tax imposed under subsection (a) does not apply to the following:

(1) An event sponsored by an educational institution or an association representing an educational institution.

(2) An event sponsored by a religious organization.

(3) An event sponsored by an organization that is considered a charitable organization by the Internal Revenue Service for federal tax purposes.

(4) An event sponsored by a political organization.

(5) An event for which tickets are sold on a per-vehicle or similar basis and not on a per-person basis.

(c) If the fiscal body adopts an ordinance under subsection (a), the tax applies to an event ticket purchased after:

(1) December 31 of the calendar year in which the ordinance is adopted; or

(2) a later date that is set forth in the ordinance.

The tax terminates and may not be collected for events that occur after the city has satisfied any outstanding obligations described in section 5(c)(2) of this chapter.

**Sec. 2. (a)** As used in this section, "paid admission" refers to each person who pays a price for admission to any event described in section 1(a) of this chapter. The term does not include persons who are entitled to be at an event without having paid a price for



1 admission.

2 (b) The entertainment facility admission tax equals fifty cents  
3 (\$.50) for each paid admission to an event described in section 1 of  
4 this chapter.

5 Sec. 3. (a) Each person who pays a price for admission to an  
6 event described in section 1(a) of this chapter is liable for the tax  
7 imposed under this chapter.

8 (b) The person who collects the price for admission shall collect  
9 the entertainment facility admissions tax imposed under this  
10 chapter at the same time the price for admission is paid. The  
11 person shall collect the tax as an agent of the city in which the  
12 facility described in section 1 of this chapter is located.

13 Sec. 4. (a) A person who collects a tax under section 3 of this  
14 chapter shall remit the revenue collected monthly to the city fiscal  
15 officer. The tax collected from persons paying for admission to a  
16 particular event shall be remitted not more than twenty (20) days  
17 after the end of the month during which the event occurred.

18 (b) At the time the tax revenues are remitted, the person shall  
19 report the amount of tax collected on forms approved by the city  
20 fiscal body.

21 Sec. 5. (a) If a tax is imposed under this chapter, the city fiscal  
22 body shall establish a city ticket tax fund. The city fiscal officer  
23 shall deposit money received under section 4 of this chapter in the  
24 city ticket tax fund.

25 (b) Money earned from the investment of money in the fund  
26 becomes a part of the fund.

27 (c) Money in the fund may be used by the city only for the  
28 following:

29 (1) Costs to construct, reconstruct, or improve public  
30 thoroughfares or highways to improve ingress or egress to  
31 and from the facility.

32 (2) Payment of principal and interest on bonds issued, or lease  
33 rentals on leases entered into, by the city to finance the  
34 construction, reconstruction, or improvement of public  
35 thoroughfares or highways under subdivision (1). Costs  
36 payable under this subdivision include costs of capitalized  
37 interest and legal, accounting, and other costs incurred in the  
38 issuance of any bonds or the entering into of any leases.

39 (3) Payment of any access or connection fee imposed on the  
40 facility for access to the city's public sewer system, as long as  
41 the fee applies to all property owners served and is uniformly  
42 assessed within the city's corporate boundaries.



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1       **Sec. 6. The city fiscal body may enter into any agreement or**  
2 **contract with the owner of the facility to facilitate the**  
3 **administration of an ordinance adopted under this chapter.**

4       **Sec. 7. With respect to:**

5           **(1) bonds, leases, or other obligations to which the city has**  
6 **pledged revenues under this chapter; and**

7           **(2) bonds issued by a lessor that are payable from lease**  
8 **rentals;**

9       **the general assembly covenants with the city and the purchasers or**  
10 **owners of the bonds or other obligations described in this section**  
11 **that this chapter will not be repealed or amended in any manner**  
12 **that will adversely affect the collection of the tax imposed under**  
13 **this chapter or the money deposited in the city ticket tax fund, as**  
14 **long as the principal of or interest on any bonds, or the lease**  
15 **rentals due under any lease, are unpaid.**

16       **SECTION 14. THE FOLLOWING ARE REPEALED [EFFECTIVE**  
17 **JULY 1, 2003]: IC 6-3.1-5; IC 6-8.1-10-11.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1811, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 19 through 42.

Page 3, delete line 1.

Page 3, delete lines 21 through 42.

Delete page 4.

Page 5, delete lines 1 through 5.

Page 6, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 8. IC 6-5.5-1-18, AS AMENDED BY P.L.129-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. (a) "Unitary business" means business activities or operations that are of mutual benefit, dependent upon, or contributory to one another, individually or as a group, in transacting the business of a financial institution. The term may be applied within a single legal entity or between multiple entities and without regard to whether each entity is a corporation, a partnership, a limited liability company, or a trust, provided that each member is either a holding company, a regulated financial corporation, a subsidiary of either, a corporation that conducts the business of a financial institution under ~~IC 6-5.5-1-17(d)(2)~~, **section 17(d)(2) of this chapter**, or any other entity, regardless of its form, that conducts activities that would constitute the business of a financial institution under ~~IC 6-5.5-1-17(d)(2)~~ **section 17(d)(2) of this chapter** if the activities were conducted by a corporation. The term "unitary group" includes those entities that are engaged in a unitary business transacted wholly or partially within Indiana. ~~However, the term does not include an entity that does not transact business in Indiana.~~

(b) Unity is presumed whenever there is unity of ownership, operation, and use evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction among entities that are members of the unitary group, as described in subsection (a). However, the absence of these centralized activities does not necessarily evidence a nonunitary business.

(c) Unity of ownership, when a corporation is involved, does not exist unless that corporation is a member of a group of two (2) or more business entities and more than fifty percent (50%) of the voting stock of each member of the group is directly or indirectly owned by:

(1) a common owner or common owners, either corporate or

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noncorporate; or

(2) one (1) or more of the member corporations of the group.

SECTION 9. IC 6-5.5-4-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2003]: **Sec. 16. For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another taxing jurisdiction if:**

**(1) in that taxing jurisdiction the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or**

**(2) that taxing jurisdiction has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the taxing jurisdiction does or does not."**

Page 6, line 41, strike "6-8.1-10-1."

Page 10, delete lines 2 through 29, begin a new paragraph and insert:

"SECTION 13. [EFFECTIVE DECEMBER 31, 2003] **IC 6-5.5-1-18, as amended by this act, and IC 6-5.5-4-16, as added by this act, apply only to taxable years beginning after December 31, 2003."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1811 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 26, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1811 be amended to read as follows:

Page 4, delete lines 10 through 42.

Page 5, delete lines 1 through 12.

Page 8, delete lines 37 through 40.

Renumber all SECTIONS consecutively.

(Reference is to HB 1811 as printed February 11, 2003.)

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred House Bill No. 1811, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 19 through 37, begin a new paragraph and insert:

"SECTION 2. IC 5-17-1-11 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 11. IC 5-22-16-4(b) applies to a lease or purchase of personal property made after June 30, 2003, by an agency (as defined in IC 4-13-2-1) or a state educational institution (as defined in IC 20-12-0.5-1) to the same extent as if the lease or purchase were subject to IC 5-22.**

SECTION 3. IC 5-22-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) An offeror that is a foreign corporation must be registered with the secretary of state to do business in Indiana in order to be considered responsible.

(b) **This subsection applies to a purchase of supplies or services for a state agency under a contract entered into or purchase order sent to an offeror (in the absence of a contract) after June 30, 2003, including a purchase described in IC 5-22-8-2 or IC 5-22-8-3. A state agency may not purchase property or services from a person that is delinquent in the payment of amounts due from the person under IC 6-2.5 (gross retail and use tax). A purchasing agent shall require an offeror submitting a bid or contract to certify that the offeror is not an ineligible vendor under this subsection.**

(c) The purchasing agent may award a contract to an offeror pending the offeror's registration with the secretary of state. If, in the judgment of the purchasing agent, the offeror has not registered within a reasonable period, the purchasing agent shall cancel the contract. An offeror has no cause of action based on the cancellation of a contract under this subsection.

SECTION 4. IC 6-2.5-4-14 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003] **Sec. 14. The department shall provide the Indiana department of administration and each purchasing agent for each state educational institution (as defined in IC 20-12-0.5-1) with a list of persons that are delinquent in remitting or paying amounts due to the department under this article. The department shall periodically revise the list to notify the Indiana department of administration and state educational institutions of additions or**

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**deletions from the list.**

SECTION 5. IC 6-2.5-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) A person that:

- (1) makes retail transactions from outside Indiana to a destination in Indiana;
- (2) does not maintain a place of business in Indiana; and
- (3) **either:**
  - (A) engages in the regular or systematic soliciting of retail transactions from potential customers in Indiana;
  - (B) **enters into a contract to provide property or services to an agency (as defined in IC 4-13-2-1) or an institution of higher education (as defined in IC 20-12-0.5-1); or**
  - (C) **agrees to sell property or services to an agency (as defined in IC 4-13-2-1) or an institution of higher education (as defined in IC 20-12-0.5-1);**

shall file an application for a retail merchant's certificate under this chapter and collect and remit ~~the use~~ tax as provided in this article. **Conduct described in subdivision (3)(B) and (3)(C) occurring after June 30, 2003, constitutes consent to be treated under this article as if the person has a place of business in Indiana or is engaging in conduct described in subdivision (3)(A), including the provisions of this article that require a person to collect and remit tax under this article.**

(b) A person is rebuttably presumed to be engaging in the regular or systematic soliciting of retail transactions from potential customers in Indiana if the person does any of the following:

- (1) Distributes catalogs, periodicals, advertising flyers, or other written solicitations of business to potential customers in Indiana, regardless of whether the distribution is by mail or otherwise and without regard to the place from which the distribution originated or in which the materials were prepared.
- (2) Displays advertisements on billboards or displays other outdoor advertisements in Indiana.
- (3) Advertises in newspapers published in Indiana.
- (4) Advertises in trade journals or other periodicals that circulate primarily in Indiana.
- (5) Advertises in Indiana editions of a national or regional publication or a limited regional edition in which Indiana is included as part of a broader regional or national publication if the advertisements are not placed in other geographically defined editions of the same issue of the same publication.
- (6) Advertises in editions of regional or national publications that

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are not by the contents of the editions geographically targeted to Indiana but that are sold over the counter in Indiana or by subscription to Indiana residents.

(7) Broadcasts on a radio or television station located in Indiana.

(8) Makes any other solicitation by telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system.

(c) A person not maintaining a place of business in Indiana is considered to be engaged in the regular or systematic soliciting of retail transactions from potential customers in Indiana if the person engages in any of the activities described in subsection (b) and:

(1) makes at least one hundred (100) retail transactions from outside Indiana to destinations in Indiana during a period of twelve (12) consecutive months; or

(2) makes at least ten (10) retail transactions totaling more than one hundred thousand dollars (\$100,000) from outside Indiana to destinations in Indiana during a period of twelve (12) consecutive months.

(d) The location in or outside Indiana of vendors that:

(1) are independent of a person that is soliciting customers in Indiana; and

(2) provide products or services to the person in connection with the person's solicitation of customers in Indiana, including products and services such as creation of copy, printing, distribution, and recording;

is not to be taken into account in the determination of whether the person is required to collect use tax under this section."

Page 7, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 9. IC 6-9-34 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

#### **Chapter 34. Entertainment Facility Admissions Tax**

**Sec. 1. (a) Except as provided in subsection (b), after June 30 of a year but before January 1 of the following year, the fiscal body of a city may adopt an ordinance to impose an excise tax, known as the entertainment facility admissions tax, for the privilege of attending any event:**

**(1) held in a privately owned outdoor entertainment facility that:**

**(A) has a minimum capacity of at least ten thousand (10,000) patrons; and**

**(B) is located in a geographic area that has been annexed**

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by the city before the adoption of the ordinance; and

(2) to which tickets are offered for sale to the public by:

(A) the box office of the facility; or

(B) an authorized agent of the facility.

(b) The excise tax imposed under subsection (a) does not apply to the following:

(1) An event sponsored by an educational institution or an association representing an educational institution.

(2) An event sponsored by a religious organization.

(3) An event sponsored by an organization that is considered a charitable organization by the Internal Revenue Service for federal tax purposes.

(4) An event sponsored by a political organization.

(5) An event for which tickets are sold on a per-vehicle or similar basis and not on a per-person basis.

(c) If the fiscal body adopts an ordinance under subsection (a), the tax applies to an event ticket purchased after:

(1) December 31 of the calendar year in which the ordinance is adopted; or

(2) a later date that is set forth in the ordinance.

The tax terminates and may not be collected for events that occur after the city has satisfied any outstanding obligations described in section 5(c)(2) of this chapter.

Sec. 2. (a) As used in this section, "paid admission" refers to each person who pays a price for admission to any event described in section 1(a) of this chapter. The term does not include persons who are entitled to be at an event without having paid a price for admission.

(b) The entertainment facility admission tax equals fifty cents (\$.50) for each paid admission to an event described in section 1 of this chapter.

Sec. 3. (a) Each person who pays a price for admission to an event described in section 1(a) of this chapter is liable for the tax imposed under this chapter.

(b) The person who collects the price for admission shall collect the entertainment facility admissions tax imposed under this chapter at the same time the price for admission is paid. The person shall collect the tax as an agent of the city in which the facility described in section 1 of this chapter is located.

Sec. 4. (a) A person who collects a tax under section 3 of this chapter shall remit the revenue collected monthly to the city fiscal officer. The tax collected from persons paying for admission to a

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particular event shall be remitted not more than twenty (20) days after the end of the month during which the event occurred.

(b) At the time the tax revenues are remitted, the person shall report the amount of tax collected on forms approved by the city fiscal body.

Sec. 5. (a) If a tax is imposed under this chapter, the city fiscal body shall establish a city ticket tax fund. The city fiscal officer shall deposit money received under section 4 of this chapter in the city ticket tax fund.

(b) Money earned from the investment of money in the fund becomes a part of the fund.

(c) Money in the fund may be used by the city only for the following:

(1) Costs to construct, reconstruct, or improve public thoroughfares or highways to improve ingress or egress to and from the facility.

(2) Payment of principal and interest on bonds issued, or lease rentals on leases entered into, by the city to finance the construction, reconstruction, or improvement of public thoroughfares or highways under subdivision (1). Costs payable under this subdivision include costs of capitalized interest and legal, accounting, and other costs incurred in the issuance of any bonds or the entering into of any leases.

(3) Payment of any access or connection fee imposed on the facility for access to the city's public sewer system, as long as the fee applies to all property owners served and is uniformly assessed within the city's corporate boundaries.

Sec. 6. The city fiscal body may enter into any agreement or contract with the owner of the facility to facilitate the administration of an ordinance adopted under this chapter.

Sec. 7. With respect to:

(1) bonds, leases, or other obligations to which the city has pledged revenues under this chapter; and

(2) bonds issued by a lessor that are payable from lease rentals;

the general assembly covenants with the city and the purchasers or owners of the bonds or other obligations described in this section that this chapter will not be repealed or amended in any manner that will adversely affect the collection of the tax imposed under this chapter or the money deposited in the city ticket tax fund, as long as the principal of or interest on any bonds, or the lease rentals due under any lease, are unpaid."



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Renumber all SECTIONS consecutively.  
and when so amended that said bill do pass.

(Reference is to HB 1811 as reprinted February 19, 2003.)

BORST, Chairperson

Committee Vote: Yeas 15, Nays 0.

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## SENATE MOTION

Mr. President: I move that Engrossed House Bill 1811 be amended to read as follows:

Page 2, line 36, delete ". A purchasing agent shall" and insert **"unless the person provides a statement from the department of state revenue that the person's delinquent tax liability:**

**(1) has been satisfied; or**

**(2) has been released under IC 6-8.1-8-2."**

Page 2, delete lines 37 through 38.

Page 3, line 5, after "2003]" insert ":",

Page 3, line 5, delete "The department shall provide the Indiana" and insert **"The department of administration and each purchasing agent for a state educational institution (as defined in IC 20-12-0.5-1) shall provide the department with a list of every person who desires to enter into a contract to sell property or services to an agency (as defined in IC 4-13-2-1) or a state educational institution. The department shall notify the department of administration or the purchasing agent of the state educational institution if a person on the list does not have a registered retail merchant certificate or is delinquent in remitting or paying amounts due to the department under this article."**

Page 3, delete lines 6 through 12.

(Reference is to EHB 1811 as printed April 8, 2003.)

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 SENATE MOTION

Mr. President: I move that Engrossed House Bill 1811 be amended to read as follows:

Page 6, between lines 32 and 33, begin a new paragraph and insert:

**"SECTION 9. IC 6-8.1-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The department may audit any returns filed in respect to the listed taxes, may appraise property if the property's value relates to the administration or enforcement of the listed taxes, may audit gasoline distributors for financial responsibility, and may investigate any matters relating to the listed taxes.**

**(b) For purposes of conducting its audit or investigative functions, the department may:**

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- (1) subpoena the production of evidence;
- (2) subpoena witnesses; and
- (3) question witnesses under oath.

The department may serve its subpoenas or it may order the sheriff of the county in which the witness or evidence is located to serve the subpoenas.

(c) The department may enforce its audit and investigatory powers by petitioning for a court order in any court of competent jurisdiction located in the county where the tax is due or in the county in which the evidence or witness is located. If the evidence or witness is not located in Indiana or if the department does not know the location of the evidence or witness, the department may file the petition in a court of competent jurisdiction in Marion County. The petition to the court must state the evidence or testimony subpoenaed and must allege that the subpoena was served but that the person did not comply with the terms of that subpoena.

(d) Upon receiving a proper petition under subsection (c), the court shall promptly issue an order which:

- (1) sets a hearing on the petition on a date not more than ten (10) days after the date of the order; and
- (2) orders the person to appear at the hearing prepared to produce the subpoenaed evidence and give the subpoenaed testimony.

If the defendant is unable to show good cause for not producing the evidence or giving the testimony, the court shall order the defendant to comply with the subpoena.

(e) If the defendant fails to obey the court order, the court may punish ~~him~~ **the defendant** for contempt.

(f) Officers serving subpoenas or court orders and witnesses appearing in court are entitled to the normal compensation provided by law in civil cases. The department shall pay the compensation costs from the money appropriated for the administration of the listed taxes.

**(g) County treasurers investigating tax matters under IC 6-9 have:**

- (1) concurrent jurisdiction with the department;**
- (2) the audit, investigatory, appraisal, and enforcement powers described in this section; and**
- (3) authority to recover court costs, fees, and other expenses related to an audit, investigatory, appraisal, or enforcement action under this section."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1811 as printed April 8, 2003.)

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